



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MAR 19 2004

John Lerner
91 Central Park West #3C
New York, New York 10023

RE: MUR 5429

Dear Mr. Lerner:

On March 9, 2004, the Federal Election Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A) a provision of the Federal Election Campaign Act of 1971, as amended ("the Act."). However, after considering the circumstances of this matter, the Commission also determined to take no further action and closed its file as it pertains to you. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You are advised that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) remain in effect, and that this matter is still open with respect to other respondents. The Commission will notify you when the entire file has been closed.

If you have any questions, please contact Beth Mizuno, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in dark ink, appearing to read "Bradley A. Smith".

Bradley A. Smith
Chairman

Enclosure
Factual and Legal Analysis

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

MUR 5429

RESPONDENT: John Lerner

I. INTRODUCTION

This matter was generated based on information ascertained by the Federal Election Commission ("Commission") in the normal course of carrying out its supervisory responsibilities. *See* 2 U.S.C. § 437g(a)(2).

II. FACTUAL AND LEGAL ANALYSIS

A. Law

No person shall make contributions to any candidate and his authorized political committees with regard to any election for Federal office which, in the aggregate, exceed \$1,000. 2 U.S.C. § 441a(a)(1)(A).

If a political committee does not retain the written records concerning designation required under 11 C.F.R. § 110.1(l)(2), the contribution shall not be considered to be designated in writing for a particular election, and the provisions of 11 C.F.R. § 110.1(b)(2)(ii) shall apply. 11 C.F.R. § 110.1(l)(5). If a contribution is not designated in writing by the contributor for a particular election, it will be considered designated for the next election for that Federal office after the contribution is made. 11 C.F.R. § 110.1(b)(2)(ii).

B. Analysis

The Commission's audit of Friends of Weiner included findings that John Lerner contributed \$4,000 to Friends of Weiner with regard to the 1998 primary election. The contribution exceeded the contribution limit at 2 U.S.C. § 441a(a)(1)(A) by \$3,000.